

### **Amendments to the Drawings**

The attached sheet of drawings includes changes to FIG. 7. This sheet replaces the original sheet of drawings.

Attachment: Replacement sheet

### Remarks

Claims 13, 16-18, 33, 36, 37, 39, 54, and 55 have been amended and new claims 59-67 have been added. With entry of this Amendment, claims 13-19, 33-39, 44-47, and 54-67 will be pending. Applicants request reconsideration in view of the amendments and the following remarks.

#### ***Allowable Subject Matter***

Applicants thank the examiner for indicating that claims 36 and 39 are objected to for depending upon a rejected base claim but would be allowable if rewritten in independent form. Claims 36 and 39 have been rewritten in independent form incorporating all of the respective limitations of the claims as previously presented and should now be allowable.

The action also indicates that claims 18 and 19 would be allowable if rewritten in independent form and to overcome the 35 U.S.C. § 112, second paragraph, rejection of these claims. Claim 18 has been rewritten in independent form. As discussed below, Applicants believe the claim limitation “a minimum depth of less than 8 mm” is definite under 35 U.S.C. § 112, second paragraph. Thus, claim 18 should be allowed. Claim 19 depends from claim 18 and also should be allowed.

#### ***Information Disclosure Statements***

Applicants filed Information Disclosure Statements on April 11, 2006 and May 24, 2006, copies of which are enclosed. Applicants have not received the initialed Form 1449 for each IDS from the examiner to confirm that the cited documents have been considered. Applicants respectfully request the examiner to initial the forms and return copies to Applicants’ representative.

#### ***Objection to Claim 18***

Claim 18 has been amended to address the objection to this claim. The objection to claim 18 therefore should be withdrawn.

#### ***Objection to Drawings***

FIG. 7 has been amended to include the legend “Prior Art.” Thus, the objection to the drawings should be withdrawn.

***Rejection of Claims 13-19 under 35 U.S.C. § 112***

Claims 13-19 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Specifically, the action contends that the limitation “a minimum depth of less than 8 mm” includes all depth values less than 8 mm as well as all depth values greater than 8 mm, and therefore is indefinite. Applicants disagree.

As discussed on pages 10, line 21- page 11, line 5 and shown in FIG. 3 of the present application, an eyepiece can have a depth that increases from a minimum depth at the nasal end of the lens moving in a direction toward the temporal end of the lens. Claim 13 specifies that each eyepiece has a minimum depth of less than 8 mm; the minimum depth necessarily cannot include values greater than 8 mm. Applicants believe that claim 13 is definite under 35 U.S.C. § 112, second paragraph, and therefore the rejection should be withdrawn.

***Rejection of Claims 13-17 and 54-58 under 35 U.S.C. § 102(b)***

Claims 13-17 and 54-58 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 6,131,208 to Banks (Banks). Applicants traverse this rejection and request that it be withdrawn.

Claim 13 has been amended to specify that each eyepiece has a transparent lens portion and a transparent annular peripheral wall surrounding the lens portion and extending rearwardly therefrom. Banks discloses an eye protector comprising a body surrounding a lens 3. Banks, as presently understood, allows a user to see through only the lens 3. (Banks, col. 2, lines 14-18 and col. 3, lines 34-36). Thus, in contrast to claim 13, Banks’ eye protector comprises a non-transparent peripheral wall surrounding a lens 3.

Accordingly, for at least the foregoing reasons, claim 13 is not anticipated by Banks and should be allowed.

Dependent claims 14-17 and 54-58 depend from claim 13 are allowable for the reasons given above in support of claim 13 and because each dependent claim sets forth an independently patentable combination of features.

***Rejection of Claims 33-35, 37, 38, and 44-47 under 35 U.S.C. § 103(a)***

Claims 33-35, 37, 38, and 44-47 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious from U.S. Patent No. 6,341,863 to Chen-Lieh (Chen-Lieh). Applicants traverse this rejection and request that it be withdrawn.

Independent claims 33 and 37 have been amended to specify that the body of the eyepiece is adapted to be worn over only one eye of a user and form a water-tight seal around the eye. Similarly, independent claim 44 has been amended to specify that each eyepiece is shaped to provide a water-tight seal around only one eye of a user.

In contrast, Chen-Lieh discloses a diving mask comprising an eyepiece that provides a water-tight seal around both eyes of the user; it cannot provide a water-tight seal around only one eye of a user, as required in the claims.

Accordingly, for at least the foregoing reasons, independent claims 33, 37, and 44 are not anticipated or rendered obvious by Chen-Lieh and should be allowed.

Dependent claims 34-35, 38, and 45-47 are allowable for the reasons given above in support of their base claims and because each dependent claim sets forth an independently patentable combination of features.

#### ***Conclusion***

The present application is in condition for allowance and such action is respectfully requested. If any further issues remain concerning this application, the Examiner is invited to call the undersigned to discuss such matters.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

One World Trade Center, Suite 1600  
121 S.W. Salmon Street  
Portland, Oregon 97204  
Telephone: (503) 595-5300  
Facsimile: (503) 595-5301

By /Jeffrey B. Haendler/

Jeffrey B. Haendler  
Registration No. 43,652